THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.6047 OF 2002

DATED 19-04-2007

Between:

M/s Maruthi Earth Movers … Petitioner

And

The Commercial Tax Officer and
Two others … Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.6047 OF 2002

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties.

The grievance of the petitioner is that the respondents have deducted at source certain amounts although the petitioner was not exigible to any sales tax. The work he had executed was only of excavation, which involved only labour.

During the hearing and from the record, we have found that the matter is still pending before the first respondent-the Commercial Tax Officer, Podilil. It will be difficult for this Court, in these proceedings, to come to a conclusion whether the contract which was executed by the petitioner would fall within a works contract or not and whether the work was exigible to tax or not. On the other hand, we have found from the record that the petitioner has been given notice by the Commercial Tax Officer to produce relevant records before him so that he comes to a conclusion whether the contract was taxable or not.

In this view of the matter, we decline to comment on the controversy between the parties and dispose of the writ petition directing the first respondent to dispose of the matter and the petitioner

is at liberty to produce all material, which he wants to produce before the first respondent and also the material which the first respondent wants him to produce. The first respondent may decide the matter within a period of four weeks from the date he receives the copy of this order. No order as to costs.

(Bilal Nazki,J)

Dated 19th April, 2007

(Nooty Ramamohana Rao,J)

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